

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

RICKY M. ARNTSEN,

Plaintiff,

v.

STATE OF WASHINGTON, et al.,

Defendants.

CASE NO. 3:24-CV-5511-BHS-DWC

ORDER DIRECTING SERVICE OF  
CIVIL RIGHTS COMPLAINT

This is a civil rights action brought pursuant to 42 U.S.C. § 1983. Plaintiff Ricky M. Arntsen is proceeding *pro se*. The case was removed to this Court on June 26, 2024. *See* Dkt. 1. Although the Court denied Plaintiff's motion to proceed *in forma pauperis* as moot, the Court found Plaintiff lacked the resources to serve Defendants and agreed to undertake service of process on Plaintiff's behalf. Dkt. 17. On August 1, 2024, the Court entered an order directing service on all named Defendants. Dkt. 18. The Clerk's Office attempted to serve Defendants Byd Surgical Masks Manufacturer and Honeywell Surgical Masks Manufacturer by first class mail, but the documents sent to these two Defendants were returned as undeliverable. *See* Dkts. 24, 50.

1 On December 18, 2024, the Court issued an order directing Plaintiff to show cause why  
2 the unserved Defendants should not be dismissed for failure to prosecute. Dkt. 58. Plaintiff  
3 submitted several responsive filings that included alternate mailing addresses for these two  
4 Defendants. *See* Dkts. 68, 70, 71, 72, 81.

5 The Court therefore **ORDERS** as follows:

6 (1) Service by Clerk

7 The Clerk is directed to send the following to Defendants Byd Surgical Masks  
8 Manufacturer and Honeywell Surgical Masks Manufacturer at the addresses listed in Dkts. 70  
9 and 71, by first class mail: a copy of Plaintiff's complaint, a copy of this Order, two copies of the  
10 notice of lawsuit and request for waiver of service of summons, a waiver of service of summons,  
11 and a return envelope, postage prepaid, addressed to the Clerk's Office.

12 (2) Response Required

13 Defendant(s) shall have **thirty (30) days** within which to return the enclosed waiver of  
14 service of summons. A defendant who timely returns the signed waiver shall have **sixty (60)**  
15 **days** after the date designated on the notice of lawsuit to file and serve an answer to the  
16 complaint or a motion permitted under Rule 12 of the Federal Rules of Civil Procedure.

17 A Defendant who fails to timely return the signed waiver will be personally served with a  
18 summons and complaint, and the Defendant may be required to pay the full costs of such service,  
19 pursuant to Rule 4(d)(2) of the Federal Rules of Civil Procedure.

20 (3) Filing and Service by Parties, Generally

21 All attorneys admitted to practice before this Court are required to file documents  
22 electronically via the Court's CM/ECF system. Counsel are directed to the Court's website,  
23 [www.wawd.uscourts.gov](http://www.wawd.uscourts.gov), for a detailed description of the requirements for filing via CM/ECF.

1 Plaintiff shall file all documents electronically. All filings must indicate in the upper right hand  
2 corner the name of the Magistrate Judge to whom the document is directed.

3 Any document filed with the Court must be accompanied by proof that it has been served  
4 upon all parties that have entered a notice of appearance in the underlying matter. Plaintiffs  
5 subject to the Court's E-Filing Initiative shall indicate the date the document is submitted for e-  
6 filing as the date of service.

7 (4) Non-State Defendants

8 As a registered user of the Court's electronic filing system, you must accept electronic  
9 service of all court filings (**except** original service of a complaint) by prisoner litigants housed at  
10 facilities actively engaged in the Prisoner E-Filing Initiative. Prisoner litigants incarcerated at  
11 facilities actively engaged in the Prisoner E-Filing Initiative are no longer required to serve their  
12 court filings on the Court or defendants by mail. Service by mail of your court filings to prison  
13 litigants housed in facilities actively engaged in the Prisoner E-Filing Initiative is also no longer  
14 required.

15 (5) Motions, Generally

16 Any request for court action shall be set forth in a motion, properly filed and served.  
17 Pursuant to LCR 7(b), any argument being offered in support of a motion shall be submitted as a  
18 part of the motion itself and not in a separate document. The motion shall include in its caption  
19 (immediately below the title of the motion) a designation of the date the motion is to be noted for  
20 consideration upon the Court's motion calendar.

21 Stipulated and agreed motions, motions to file over-length motions or briefs, motions for  
22 reconsideration, joint submissions pursuant to the option procedure established in LCR 37(a)(2),  
23 motions for default, requests for the clerk to enter default judgment, and motions for the court to

enter default judgment where the opposing party has not appeared shall be noted for consideration on the day they are filed. *See* LCR 7(d)(1). All other non-dispositive motions shall be noted for consideration no earlier than 21 days after filing and service of the motion. *See* LCR 7(d)(3). All dispositive motions shall be noted for consideration no earlier than 28 days after filing and service of the motion. *Id.*

For electronic filers, all briefs and affidavits in opposition to either a dispositive or non-dispositive motion shall be filed and served not later than 11:59 p.m. on the Monday immediately preceding the date designated for consideration of the motion. The party making the motion may electronically file and serve, not later than 11:59 p.m. on the date designated for consideration of the motion, a reply to the opposing party's briefs and affidavits.

(6) Motions to Dismiss and Motions for Summary Judgment

Parties filing motions to dismiss pursuant to Rule 12 of the Federal Rules of Civil Procedure and motions for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure should acquaint themselves with those rules. As noted above, these motions shall be noted for consideration no earlier than 28 days after filing and service of the motion.

Defendants filing motions to dismiss or motions for summary judgment are advised that they MUST serve *Rand* and *Wyatt* notices concurrently with motions to dismiss and motions for summary judgment so that *pro se* prisoner plaintiffs will have fair, timely and adequate notice of what is required of them in order to oppose those motions. *Woods v. Carey*, 684 F.3d 934, 941 (9th Cir. 2012). The Ninth Circuit has set forth model language for such notices:

A motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure will, if granted, end your case.

Rule 56 tells you what you must do in order to oppose a motion for summary judgment. Generally, summary judgment must be granted when there is no genuine

issue of material fact – that is, if there is no real dispute about any fact that would affect the result of your case, the party who asked for summary judgment is entitled to judgment as a matter of law, which will end your case. When a party you are suing makes a motion for summary judgment that is properly supported by declarations (or other sworn testimony), you cannot simply rely on what your complaint says. Instead, **you must set out specific facts in declarations, depositions, answers to interrogatories, or authenticated documents, as provided in Rule 56(e), that contradict the facts shown in the defendant’s declarations and documents and show that there is a genuine issue of material fact for trial. If you do not submit your own evidence in opposition, summary judgment, if appropriate, may be entered against you. If summary judgment is granted, your case will be dismissed and there will be no trial.**

*Rand v. Rowland*, 154 F.3d 952, 963 (9th Cir. 1998) (emphasis added); *see also Wyatt v. Terhune*, 315 F.3d 1108, 1120 n.14 (9th Cir. 2003) (extending the fair notice requirement to motions to dismiss for failure to exhaust administrative remedies).

Defendants who fail to file and serve the required *Rand* and *Wyatt* notices on Plaintiff may have their motion stricken from the Court’s calendar with leave to re-file.

(7) Direct Communications with District Judge or Magistrate Judge

No direct communication is to take place with the District Judge or Magistrate Judge with regard to this case. All relevant information and papers are to be directed to the Clerk.

(8) The Clerk is directed to send copies of this Order to Plaintiff and Defendants.

Dated this 29th day of January, 2025.



David W. Christel  
United States Magistrate Judge